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12 UNITED STATES OF AMERICA

13 UNITED STATES DISTRICT COURT

14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15 IN THE MATTER OF THE SEARCH OF:  
16 A BLACK ZTE CELLULAR PHONE,  
SEIZED ON MAY 24, 2018 FROM  
17 KELLY DESHANNON

No. 2:18-MJ-02369

GOVERNMENT'S EX PARTE APPLICATION  
FOR SECOND EXTENSION OF TIME  
WITHIN WHICH TO RETAIN AND SEARCH  
DIGITAL DEVICES; DECLARATION OF  
MAX B. SHINER

21 The United States of America, by and through its counsel of  
22 record, Assistant United States Attorney Max B. Shiner, hereby  
23 applies for an order extending by 180 days the time within which the  
24 government may retain and continue to attempt to search encrypted  
25 digital devices and data, seized pursuant to a federal search  
26 warrant.

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**DECLARATION OF MAX B. SHINER**

I, Max B. Shiner, hereby declare and state:

1. I am an Assistant United States Attorney assigned to this investigation for United States Attorney's Office for the Central District of California.

1. This declaration is made in support of a request for an order permitting the government to retain and search the following digital devices and data, seized pursuant to a previously authorized search warrant, which are encrypted or which contain encrypted files:

a. A black ZTE cellular phone, seized from KELLY DESHANNON on May 24, 2018 (the "SUBJECT DIGITAL DEVICE").

2. On September 5, 2018, Special Agent Minh D. Tran of the Federal Bureau of Investigation ("FBI") obtained a federal search warrant issued by the Honorable Paul L. Abrams, United States Magistrate Judge ("the warrant"), authorizing the search of the SUBJECT DIGITAL DEVICE, that had been seized from the possession of KELLY DESHANNON at the time of her arrest on May 24, 2018.

3. The warrant, which is incorporated herein by reference, authorized the search of the SUBJECT DIGITAL DEVICE and provided for its retention by law enforcement for a period of 120 days to allow the government to search such devices for evidence of violations of 21 U.S.C. § 846 (conspiracy to distribute controlled substances) and 18 U.S.C. § 1962(d) (racketeering conspiracy).

4. On December 26, 2018, the government applied for and received an order extending by 180 days the deadline by which the government must complete the review of the SUBJECT DIGITAL DEVICE.

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1           5.     This is the second request for an extension.   The current  
2     deadline by which the government must complete its review of the  
3     SUBJECT DIGITAL DEVICE is July 2, 2019.

4           6.     Based on information provided to me by FBI agents with  
5     respect to the SUBJECT DIGITAL DEVICE, I learned the following:

6               a.     The FBI brought the SUBJECT DIGITAL DEVICE to the  
7     Orange County Regional Computer Forensics Laboratory ("OCRCFL") on or  
8     about September 7, 2018, in order to unlock or decrypt this passcode-  
9     protected device.   The agents were unable to unlock the device.  
10    After unsuccessfully attempting to unlock the device, the agents then  
11    spoke to technically trained personnel assigned to the OCRCFL.   These  
12    technically trained personnel stated that they would not able to  
13    unlock or decrypt the device based on the make and model of the  
14    cellular phone.   The technically trained personnel stated that a  
15    request could be submitted to the Operational Technology Division  
16    ("OTD") for other possible means to unlock the device.

17              b.     On or about September 10, 2018, the FBI then contacted  
18    the OTD, a laboratory located in Quantico, Virginia.   OTD advised  
19    that they did not currently have a method or tool that would be able  
20    to unlock or decrypt the device.

21              c.     On or about September 27, 2018, the FBI provided the  
22    SUBJECT DIGITAL DEVICE to a third party with expertise in unlocking  
23    and decryption of electronic devices, and who, at the time, believed  
24    they possessed the capability to unlock such a phone.   To date, the  
25    third party expert has not been able to unlock the SUBJECT DIGITAL  
26    DEVICE.

27              d.     The FBI has learned that the SUBJECT DIGITAL DEVICE  
28    has two levels of security requiring user input of a password or PIN

1 in order to unlock the encrypted device. At this time the FBI and  
2 the third party assisting in the effort to decrypt have not been able  
3 to decrypt the device using methods available to them.

4 7. Although investigators cannot currently bypass the  
5 encryption on the devices/files described above, I know that new  
6 methods for bypassing encryption and for decrypting files and devices  
7 are constantly being developed. In addition, I know that it is not  
8 uncommon for passwords to be discovered or learned as an  
9 investigation continues, for example, when witnesses cooperate, when  
10 additional locations are searched, or during ongoing review of seized  
11 electronic data. Therefore, I seek permission for the government to  
12 retain the devices/data described above, and to continue to attempt  
13 to access them, in the event that such methods or information are  
14 developed or discovered and the devices/data can be unlocked or  
15 otherwise accessed.

16 8. I believe the SUBJECT DIGITAL DEVICE is likely to contain,  
17 or to be, evidence, fruits, or instrumentalities of the Subject  
18 Offenses for the reasons stated in the affidavit in support of the  
19 underlying warrant in this matter. Specifically, based on  
20 conversations with Special Agents, I am aware that the SUBJECT  
21 DIGITAL DEVICE was found in the vehicle in which DESHANNON was  
22 located when she was detained and arrested, and was found on the seat  
23 where DESHANNON was sitting. During a search of the vehicle, the  
24 SUBJECT DIGITAL DEVICE displayed a number of incoming messages from  
25 different contacts indicating that the user of the SUBJECT DIGITAL  
26 DEVICE was engaged in the sale of controlled substances (as described  
27 in the affidavit in support of the search warrant in paragraphs 11  
28 and 14).

